

METLAKATLA FIRST NATION LNG BENEFITS AMENDING AGREEMENT

This Amending Agreement is dated for reference October 6, 2016.

BETWEEN:

Her Majesty the Queen in right of the Province of British Columbia, as represented by the Minister of Natural Gas Development and the Minister of Aboriginal Relations and Reconciliation

(the "Province")

AND:

Metlakatla First Nation, on behalf of itself and its Members, as represented by the Chief and Council

("Metlakatla")

(collectively the "Parties" and individually a "Party").

WHEREAS:

- A. The Parties entered into the Metlakatla First Nation Pacific Northwest (PNW) LNG Benefit Agreement dated for reference February 2, 2016 (the "Agreement");
- B. Section 15.9 of the Agreement provides that it may be amended from time to time by the Parties in writing; and
- C. The Parties wish to amend the Agreement in accordance with this Amending Agreement.

NOW THEREFORE the Parties agree as follows:

ARTICLE 1 – DEFINITIONS AND INTERPRETATION

1.1 Definitions. In this Amending Agreement:

“Agreement” means the Metlakatla First Nation Pacific Northwest (PNW) LNG Benefits Agreement dated for reference February 2, 2016;

“Amending Agreement” means this Amending Agreement, including the attached Schedules; and

“Amendment Date” means the date that this Amending Agreement comes into force and effect in accordance with section 2.1.

1.2 Incorporation of Definitions from the Agreement. Unless the context requires otherwise, all capitalized terms in this Amending Agreement have the meaning ascribed to them in the Agreement.

1.3 Schedules. The following are the Schedules to this Amending Agreement:

- Schedule 9 Maps of Lax Kw’alaams LNG Benefit Agreement Lands
- Schedule 10 Map of Prince Rupert LNG Project Area
- Schedule 11 Map of Prince Rupert Industrial Park Expansion Lands

ARTICLE 2 - COMING INTO EFFECT AND EFFECTIVE DATE OF AMENDMENTS

2.1 Coming into Effect. This Amending Agreement comes into force and effect when it has been executed and delivered by the Parties and Metlakatla has satisfied the condition precedent set out in section 4.1.

2.2 Effective Date of Amendments. The amendments to the Agreement set out in Article 5 of this Amending Agreement take effect as of the Amendment Date.

ARTICLE 3 - REPRESENTATIONS AND WARRANTIES

3.1 Metlakatla Representations. Metlakatla represents and warrants to the Province, with the intent and understanding that the Province will rely on those representations and warranties in entering into this Amending Agreement, that:

- a) it enters into this Amending Agreement for, and on behalf of, its Members;
and
- b) it, as represented by its Chief and Council, has the legal power, capacity and authority to enter into and to carry out its obligations under this Amending Agreement on behalf of Metlakatla and its Members.

- 3.2 **Provincial Representations.** The Province represents and warrants to Metlakatla, with the intent and understanding that Metlakatla will rely on those representations and warranties in entering into this Amending Agreement, that it has the legal power, capacity and authority to enter into this Amending Agreement.

ARTICLE 4 – CONDITIONS PRECEDENT

- 4.1 **Band Council Resolution.** The obligations of the Province under this Amending Agreement and the amendments to the Agreement contemplated hereby are conditional on Metlakatla delivering a resolution made by its elected Council approving this Amending Agreement and authorizing Metlakatla’s representatives named in the resolution to execute and deliver this Amending Agreement on behalf of Metlakatla.

ARTICLE 5 – AMENDMENTS TO THE AGREEMENT

- 5.1 **TITLE.** The title of the Agreement is amended by deleting the words “Pacific Northwest (PNW)”.

5.2 **ARTICLE 1 – INTERPRETATION**

- 5.2.1 Section 1.1 of the Agreement is amended as follows:

The definition of “Agreement” is amended by deleting the words “Pacific Northwest (PNW)”.

- 5.2.2 The definitions of “Associated Infrastructure”, “Commencement of Construction”, “EPC Contractor”, “FID” or “Final Investment Decision”, “Governmental Action”, and “PNW LNG Project” are deleted and replaced with the following definitions, as applicable:

“Associated Infrastructure” means any infrastructure project reasonably necessary for the PNW LNG Project or an Other LNG Project for electricity, transportation and other utility corridor rights of way, including related facilities, power generation facilities, plant equipment and other infrastructure easements and rights of way as well as matters reasonably necessary for the construction, operation and maintenance of the PNW LNG Project or an Other LNG Project including related lay down areas and work camps, but not including any natural gas transmission line;

“Commencement of Construction” means the date on which the proponent of the PNW LNG Project or an Other LNG Project issues

a notice or notices to its EPC Contractor to proceed, in respect of all material engineering, procurement and construction contracts for the PNW LNG Project or an Other LNG Project, excluding other site assessment or exploration work;

“EPC Contractor” means the engineering, procurement and construction contractor for the PNW LNG Project or an Other LNG Project;

“FID” or “Final Investment Decision” means a final and unconditional decision of the PNW LNG Project proponent or an Other LNG Project proponent to proceed with the construction of the PNW LNG Project or an Other LNG Project, as applicable, that, for certainty, includes that proponent having obtained:

- a) an environmental assessment certificate issued by the provincial Minister of Environment under section 17(3) of the *Environmental Assessment Act*, S.B.C. 2002, c. 43 and a decision statement by the federal Minister of Environment under section 54 of the *Canadian Environmental Assessment Act, 2012*, S.C. 2012, c. 19, s. 52;
- b) a National Energy Board natural gas export licence that remains valid and effective for the project;
- c) the financial resources and a funding plan in place for the project; and
- d) all necessary internal and shareholder and investor approvals;

“Governmental Action” means any provincial or federal approval, decision, process, agreement, authorization or action of any kind whatsoever, including approvals, decisions, processes, agreements, authorizations or actions of a provincial or federal agency or Crown corporation, relating to the planning, approval, construction, development, operation, reclamation or closure of the PNW LNG Project and its Associated Infrastructure or an Other LNG Project and its Associated Infrastructure; and

“PNW LNG Project” means the Pacific Northwest Liquefied Natural Gas project proposed on and adjacent to Lelu Island, British Columbia, as described in the applications made to the British Columbia Environmental Assessment Office and the Canadian Environmental Assessment Agency, as well as any

expansion to four trains capable of producing approximately 24 million tons of LNG per annum; and as approved in the British Columbia Environmental Assessment Office *Environmental Assessment Certificate #E14-04*, as amended from time to time, and in the Decision Statement, dated September 27, 2016, issued under section 54 of the *Canadian Environmental Assessment Act, 2012*, as amended from time to time.

5.2.3 Section 1.1 of the Agreement is amended by inserting the following defined terms in the appropriate alphabetic order:

“Lax Kw’alaams” means the “band” as that term is defined in the *Indian Act*, named the “Lax Kw’alaams First Nation” and includes all members of that band;

“Lax Kw’alaams LNG Benefits Agreement Lands” means the lands to be transferred to a company designated by Lax Kw’alaams as shown for illustrative purposes in Schedule 9;

“Other LNG Project” means any project proposed within the Prince Rupert LNG Project Area to produce and export LNG that is a “reviewable project” within the meaning of the *Environmental Assessment Act*, S.B.C. 2002, c.43, as that LNG project is described in the applicable application made to the Canadian Environmental Assessment Agency and the British Columbia Environmental Assessment Office, subject to any modifications to that description that may be required in the course of securing environmental and regulatory approvals, but does not include:

- a) the PNW LNG Project; or
- b) any LNG project that may be proposed within the Prince Rupert LNG Project Area after 4 LNG projects that are “reviewable projects” within the meaning of the *Environmental Assessment Act*, S.B.C. 2002, c.43 located within the Prince Rupert LNG Project Area have made a FID;

“Prince Rupert Industrial Park Expansion Lands” means those lands shown for illustrative purposes in Schedule 11 having an area of approximately 70 hectares to be transferred by the Province to the City of Prince Rupert for the expansion of the Prince Rupert industrial park; and

“Prince Rupert LNG Project Area” means those lands and waters shown in Schedule 10.

5.2.4 Section 1.3 of the Agreement is amended by inserting the following:

- Schedule 9 Maps of Lax Kw'alaams LNG Benefit Agreement Lands
- Schedule 10 Map of Prince Rupert LNG Project Area
- Schedule 11 Map of Prince Rupert Industrial Park Expansion Lands

5.3 ARTICLE 2 – COMING INTO EFFECT AND TERMINATION

5.3.1 The Agreement is amended by re-numbering section 2.3 as section 2.6 and inserting sections 2.3, 2.4, and 2.5 as follows:

2.3 Termination if no Commencement of Construction. This Agreement terminates if the Commencement of Construction of the PNW LNG Project does not occur by September 30, 2019.

2.4 Notice of Proposed Termination. Prior to terminating this Agreement under section 2.2, the Province will notify Metlakatla of the proposed termination and the Parties will meet within 30 days to discuss and attempt to resolve the matter.

2.5 No Meeting or Resolution of the Matter. For certainty, nothing in section 2.4 limits the ability of the Province to take any action if Metlakatla does not meet with the Province or the Parties are not able to resolve the matter as a result of meeting in accordance with section 2.4.”

5.3.2 The Agreement is amended by inserting section 2.7 as follows:

2.7 Survival. Provided that the funds referred to in sections 11.5 and 11.6 have been provided to Metlakatla, Article 5 – Assurances and section 11.3 survive the termination of this Agreement.”

5.4 ARTICLE 5 – ASSURANCES

5.4.1 Section 5.1 of the Agreement is amended by inserting the word “material” in front of the word “obligations”.

5.4.2 Section 5.3 of the Agreement is amended by inserting the words “or any Other LNG Project and its Associated Infrastructure” after the words “PNW LNG Project and its Associated Infrastructure” in the second line.

5.4.3 Section 5.4 of the Agreement is amended by inserting the words “or an Other LNG Project” after the words “PNW LNG Project” in the third line.

5.4.4 The Agreement is amended by inserting sections 5.5, 5.6, 5.7 and 5.8 as follows:

“5.5 Assurances in relation to the Lax Kw’alaams LNG Benefits Agreement Lands. Upon the Effective Date, Metlakatla:

- a) releases and discharges the Province and all Provincial Officials from all claims with respect to the Province’s obligation to consult and, where appropriate, accommodate in respect of the transfer of the Lax Kw’alaams LNG Benefits Agreement Lands;
- b) releases and discharges the Province and all Provincial Officials from all claims of infringement of Aboriginal Rights in respect of the Lax Kw’alaams LNG Benefits Agreement Lands; and
- c) acknowledges that the Province has fulfilled all obligations it may have to provide Metlakatla any financial or economic accommodation, economic or other benefits including land, capacity funding, and payments or compensation of any kind whatsoever, that may be required with respect to the transfer of the Lax Kw’alaams LNG Benefits Agreement Lands.

5.6 Assurances of Metlakatla in relation to the Other LNG Projects. Provided that the Province is not in breach of its material obligations under this Agreement, Metlakatla will:

- a) support the Other LNG Projects generally, provided that they are developed in a manner that is environmentally and socially responsible and respectful of Metlakatla’s Aboriginal Rights;
- b) participate in good faith in all environmental assessment and regulatory processes for each of the Other LNG Projects;
- c) not initiate, support or participate, directly or indirectly, in any activity that would physically interfere with, delay, hinder or impede the development of an Other LNG Project, its Associated Infrastructure or any related Governmental Action;
- d) not support actions of any kind whatsoever by a member of Metlakatla or any other First Nation that would physically interfere with, delay, hinder or impede the development of an Other LNG Project, its Associated Infrastructure or any related Governmental Action;
- e) acknowledge and agree that the Province has fulfilled all obligations it may have to provide Metlakatla with financial or

economic accommodation, economic or other benefits including land, capacity funding, and payments or compensation of any kind whatsoever, with respect to each of the Other LNG Projects, its Associated Infrastructure and any related Governmental Action; and

- f) release and discharge the Province and Provincial Officials from all claims for financial or economic accommodation, economic or other benefits including lands, monetary damages, or other payments or compensation of any kind whatsoever associated with:
 - i. the Province's obligation to consult, and where appropriate, accommodate in respect of each of the Other LNG Projects, its Associated Infrastructure and any related Governmental Action; and
 - ii. any infringement of Metlakatla's Aboriginal Rights in respect of each of the Other LNG Projects, its Associated Infrastructure and any related Governmental Action.

5.7 Releases in respect of Other LNG Projects. Upon the Commencement of Construction of an Other LNG Project, Metlakatla will:

- a) not initiate or participate in or support any legal action or proceeding that challenges, directly or indirectly, that Other LNG Project, its Associated Infrastructure or any related Governmental Action on the basis that Metlakatla has not been adequately consulted or accommodated on that Other LNG Project, its Associated Infrastructure or any related Governmental Action or that Other LNG Project, its Associated Infrastructure or any related Governmental Action constitutes an unjustified infringement of Metlakatla's Aboriginal Rights;
- b) release and discharge the Province and all Provincial Officials from all claims with respect to the Province's obligation to consult, and where appropriate, accommodate, in respect of that Other LNG Project, its Associated Infrastructure and any related Governmental Action; and
- c) release and discharge the Province and all Provincial Officials from all claims of infringement of its Aboriginal Rights in respect of that Other LNG Project, its Associated Infrastructure and any related Governmental Action.

5.8 Assurances in Relation to Prince Rupert Industrial Park Expansion Lands. Upon the Effective Date, Metlakatla:

- a) releases and discharges the Province and all Provincial Officials from all claims with respect to the Province's obligation to consult and, where appropriate, accommodate in respect of the transfer of the Prince Rupert Industrial Park Expansion Lands by the Province to the City of Prince Rupert;
- b) releases and discharges the Province and all Provincial Officials from all claims of infringement of Aboriginal Rights in respect of the Prince Rupert Industrial Park Expansion Lands; and
- c) acknowledges that the Province has fulfilled all obligations it may have to provide Metlakatla any financial or economic accommodation, economic or other benefits including land, capacity funding, and payments or compensation of any kind whatsoever, that may be required with respect to the transfer of the Prince Rupert Industrial Park Expansion Lands by the Province to the City of Prince Rupert."

5.5 ARTICLE 11 – OTHER MATTERS

5.5.1 The Agreement is amended by deleting section 11.3 and replacing it with the following:

"11.3 Accommodation for LNG Projects in the Event of Termination. If this Agreement terminates in accordance with sections 2.2 or 2.3, the Province may rely on any Parcel, other than the Wolf Creek Parcel, that has been transferred in accordance with this Agreement and any funds that have been provided in accordance with this Agreement and the contribution agreements contemplated by section 11.11, as an accommodation for any LNG project proposed within the Prince Rupert LNG Project Area."

5.5.2 The Agreement is amended by inserting the following as sections 11.5 to 11.14:

"11.5 \$5 Million Payment. As soon as practicable after receipt of a written request to do so, the Province will provide Metlakatla with a payment of \$5 million.

11.6 \$20 Million Payment. As soon as practicable after the Province has received written confirmation from the proponent of the PNW LNG Project, in form and content satisfactory to the Province acting reasonably, that Commencement of Construction of the PNW LNG

Project has occurred, the Province will provide Metlakatla with a payment of \$20 million.

11.7 Uses for Funding Provided under Sections 11.5 and 11.6.

Metlakatla will use any funding provided to it by the Province under sections 11.5 and 11.6 for the following purposes:

- a) community development projects and social initiatives;
- b) investment in renewable energy projects and community energy planning;
- c) marine emergency response initiatives, including participating in new response programs;
- d) developing greenhouse gas off-set projects and environmental off-set or remediation projects;
- e) education and skills training, in particular for Metlakatla Members to participate in business or employment opportunities created by LNG projects; or
- f) economic development, including investment that supports LNG development activities and transportation infrastructure.

11.8 Suspension of Funds and Lands. Notwithstanding any other provision in this Agreement, if:

- a) Metlakatla fails to perform or is in breach of any of its material obligations under this Agreement;
- b) any representation or warranty made by Metlakatla in this Agreement is not true or incorrect;
- c) Metlakatla initiates, participates in or supports any legal action or proceeding that challenges, directly or indirectly, the PNW LNG Project, its Associated Infrastructure or any related Governmental Action, or any Other LNG Project, its Associated Infrastructure or any related Governmental Action, on the basis that Metlakatla has not been adequately consulted or accommodated or that the PNW LNG Project, its Associated Infrastructure or any related Governmental Action, or any Other LNG Project, its Associated Infrastructure or any related Governmental Action constitutes an unjustified infringement of Metlakatla's Aboriginal Rights;

- d) Metlakatla initiates, participates or supports, directly or indirectly any actions that would interfere with, delay, hinder or otherwise oppose the PNW LNG Project, its Associated Infrastructure or any related Governmental Action, or any Other LNG Project, its Associated Infrastructure or any related Governmental Action; or
- e) Metlakatla supports actions of any kind whatsoever by a Member of Metlakatla or a member of any other First Nation that would interfere with, delay, hinder or oppose the PNW LNG Project, its Associated Infrastructure or any related Governmental Action, or any Other LNG Project, its Associated Infrastructure or any related Governmental Action;

then, the Province may suspend the transfer of any Lands under this Agreement, or the payment of any funds under this Agreement or the contribution agreements contemplated under section 11.11 that have not yet been made to Metlakatla.

- 11.9** Prior to taking any action under section 11.8, the Province will notify Metlakatla of the proposed action and the Parties will meet within 30 days to discuss and attempt to resolve the matter.
- 11.10** For certainty, nothing in section 11.9 limits the ability of the Province to take actions, if Metlakatla does not meet with the Province or the Parties are not able to resolve the matter in accordance with section 11.9.
- 11.11 Additional Contribution Agreements.** The Province agrees that, subject to the Parties concluding required contribution agreements on terms and conditions satisfactory to the Province acting reasonably, it will, as soon as practicable and in a manner consistent with the required contribution agreements, provide \$21 million to Metlakatla as follows:
 - a) \$3.5 million to be used for operating expenses and as a capital contribution for Metlakatla's existing shellfish aquaculture operation;
 - b) up to \$17.5 million, to be used for development planning and as a capital contribution for the construction of a seniors facility; and
 - c) the balance of any amounts not addressed under sub-section b), to be provided from other provincial program funding as

agreed to by the Parties and in accordance with the requirements of the applicable program.

11.12 Sharing of Nexen Sole Proponent Agreement Revenues.

Metlakatla agrees that the share of revenue from the Digby Island Sole Proponent Agreement between the Province, Nexen Energy ULC, INPEX Corporation, and JGC Exploration Canada Limited dated October 21, 2015 that the Province has agreed to share with First Nations, will be shared between Metlakatla and Lax Kw'alaams on a 50:50 basis and consents to the release of Lax Kw'alaams' share of those revenues by the Province on that basis.

11.13 Crown Land Revenue Sharing. If requested by Metlakatla, the Province will meet and discuss arrangements that the Province may establish for the sharing of revenues generated from provincial Crown land dispositions associated with the Other LNG Projects.

11.14 Other LNG Project Assurances. If the Province concludes an LNG benefits agreement with Lax Kw'alaams in respect of the Other LNG Projects that provides that the equivalent of the releases provided by Metlakatla under section 5.7 occur at a time other than the Commencement of Construction of an Other LNG Project, the Province will notify Metlakatla and the Parties will negotiate and attempt to reach agreement on amending section 5.7 to make the timing of the releases provided by Metlakatla in relation to the Other LNG Projects consistent with the LNG benefits agreement concluded with Lax Kw'alaams.”

5.6 ARTICLE 15 – GENERAL

5.6.1 Section 15.1 of the Agreement is amended by adding the words “and Article 11” after the reference to “Article 6” in the first line and by inserting the words “and Treasury Board having authorized the transfer of the Lands.” after the word “payment” in the last line.

5.6.2 Section 15.7 of the Agreement is amended by adding the following as subsection c):

- “c) limit or prevent Metlakatla from participating in any revenue sharing arrangements that the Province may establish for eligible First Nations in relation to any revenues generated from provincial Crown land dispositions associated with the Other LNG Projects.”

5.7 SCHEDULES TO THE AGREEMENT

5.7.1 The Agreement is amended by attaching Schedule 9 - Maps of Lax Kw'alaams LNG Benefits Agreement Lands, Schedule 10 - Map of Prince Rupert LNG Project Area, and Schedule 11 - Map of Prince Rupert Industrial Park Expansion Lands of this Amending Agreement, as Schedules 9, 10 and 11 respectively to the Agreement.

ARTICLE 6 – GENERAL

- 6.1 Execution in Counterpart.** This Amending Agreement may be entered into by each Party signing a separate copy of this Amending Agreement (including a scan, photocopy or facsimile copy) and delivering it to the other Party by facsimile or electronic transmission.
- 6.2 Headings.** Headings in this Amending Agreement are for convenience only, do not form a part of this Amending Agreement and in no way define, limit, alter or enlarge the scope of meaning of any provision of this Amending Agreement.

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6.3 Ratification of Agreement. The Parties ratify and confirm the Agreement and acknowledge that, subject to the amendments set out in this Amending Agreement, the Agreement is in full force and effect and binding on the Parties.

IN WITNESS WHEREOF the Parties have executed this Amending Agreement with effect as of the date first noted above:

Signed on behalf of Metlakatla by its authorized signatories




Harold Leighton, Chief Councillor



Witness


Signed on behalf of Her Majesty the Queen In Right of the Province of British Columbia by



Honourable Rich Coleman
Minister of Natural Gas Development



Witness



Honourable John Rustad
Minister of Aboriginal Relations and Reconciliation

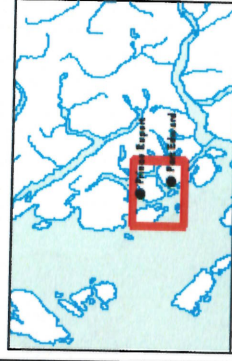


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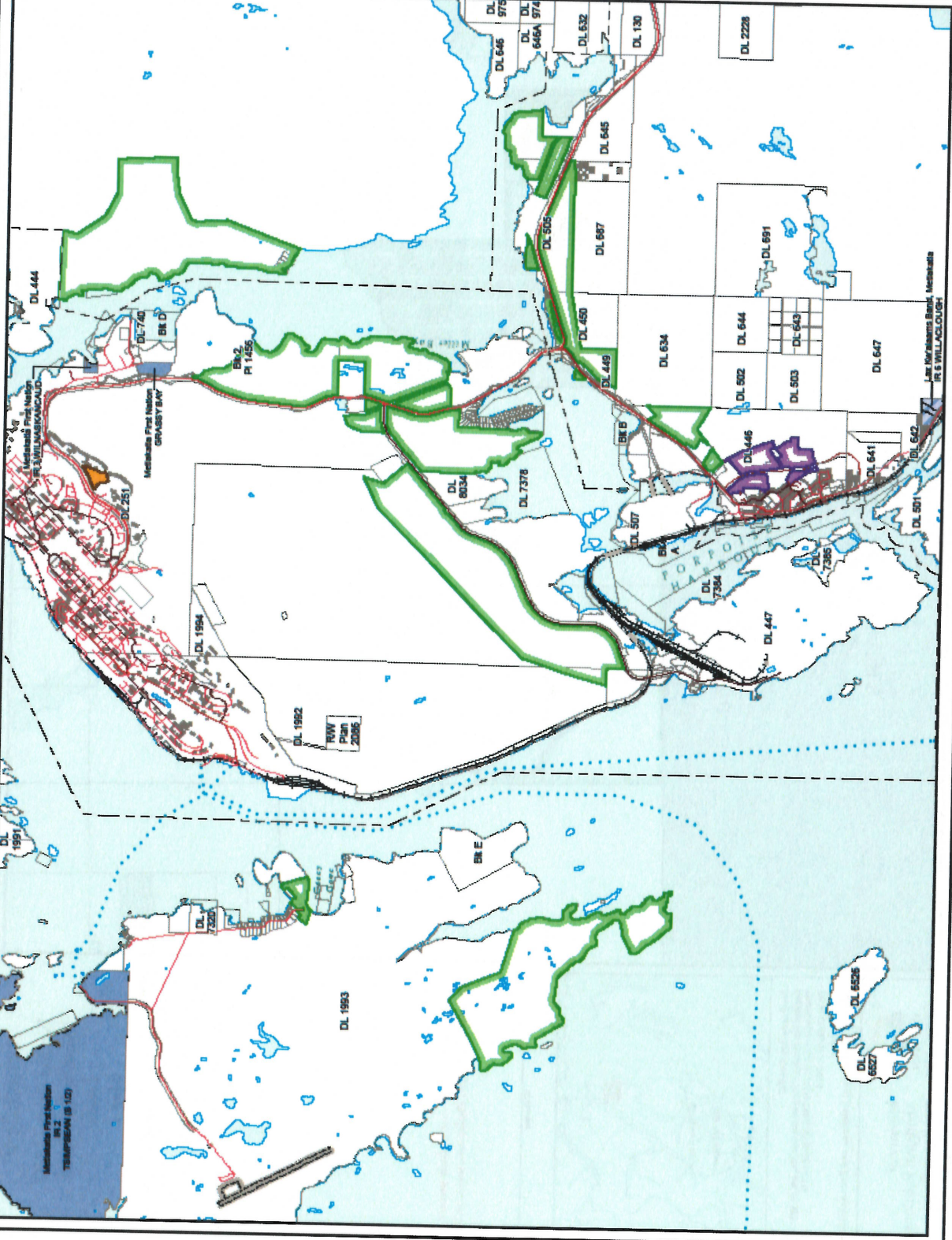
Schedule 9 Lax Kw'alems LNG Benefits Agreement Lands Map 1

-  Lands Proposed for Transfer to Lax Kw'alems
-  Lands Proposed for Joint Transfer to Lax Kw'alems and Metlakula
-  Surplus BC Hydro Parcel
-  Metlakula Indian Reserve
-  Lax Kw'alems/Metlakula Indian Reserve
-  Cultural Boundary

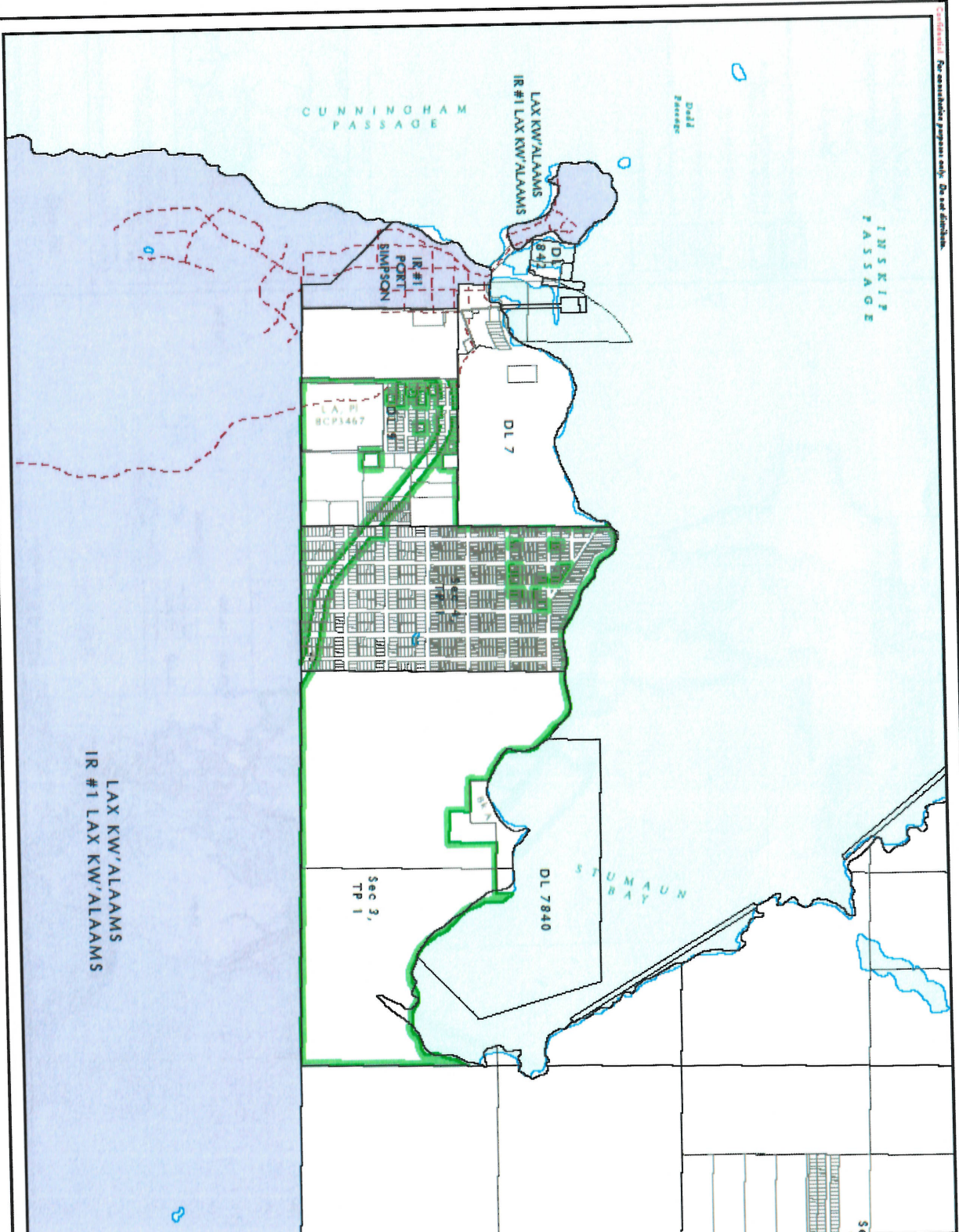
Areas of interest do not include private land, highways, or BC Hydro transmission lines



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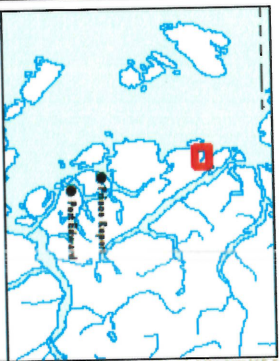
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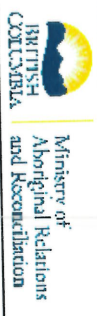
Schedule 9
Lax Kw'Alaams I/NG
Benefits Agreement
Lands
Map 2

- Land Proposed for Transfer to Lax Kw'Alaams
- Lax Kw'Alaams Indian Reserve
- Current Boundary

Areas of Interest do not include private land, highways, or BC Hydro transmission lines

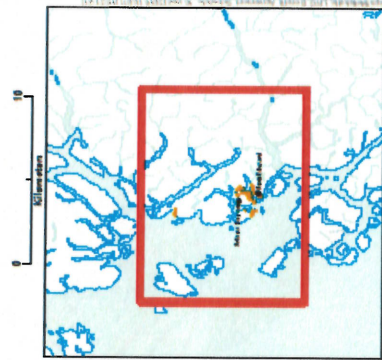


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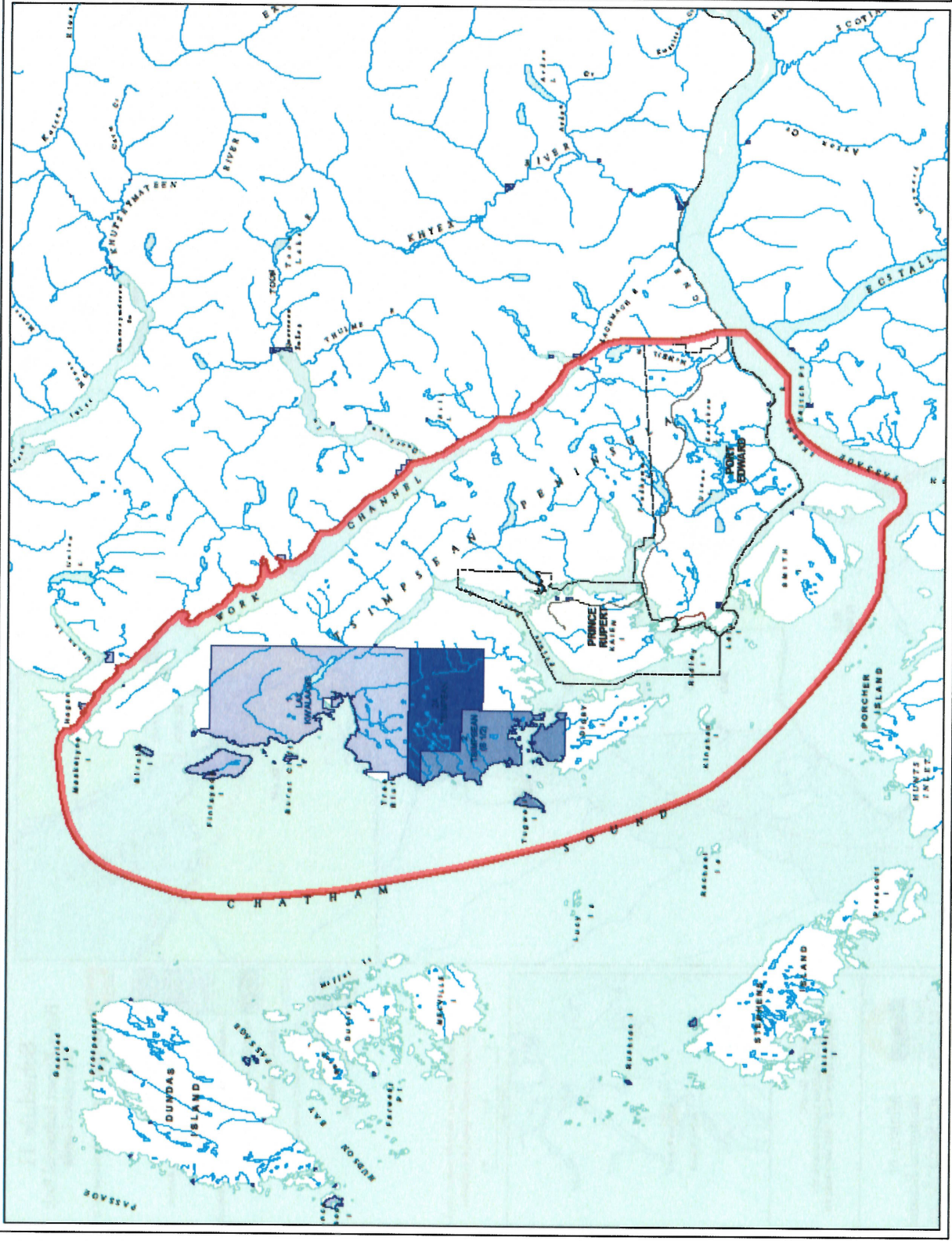


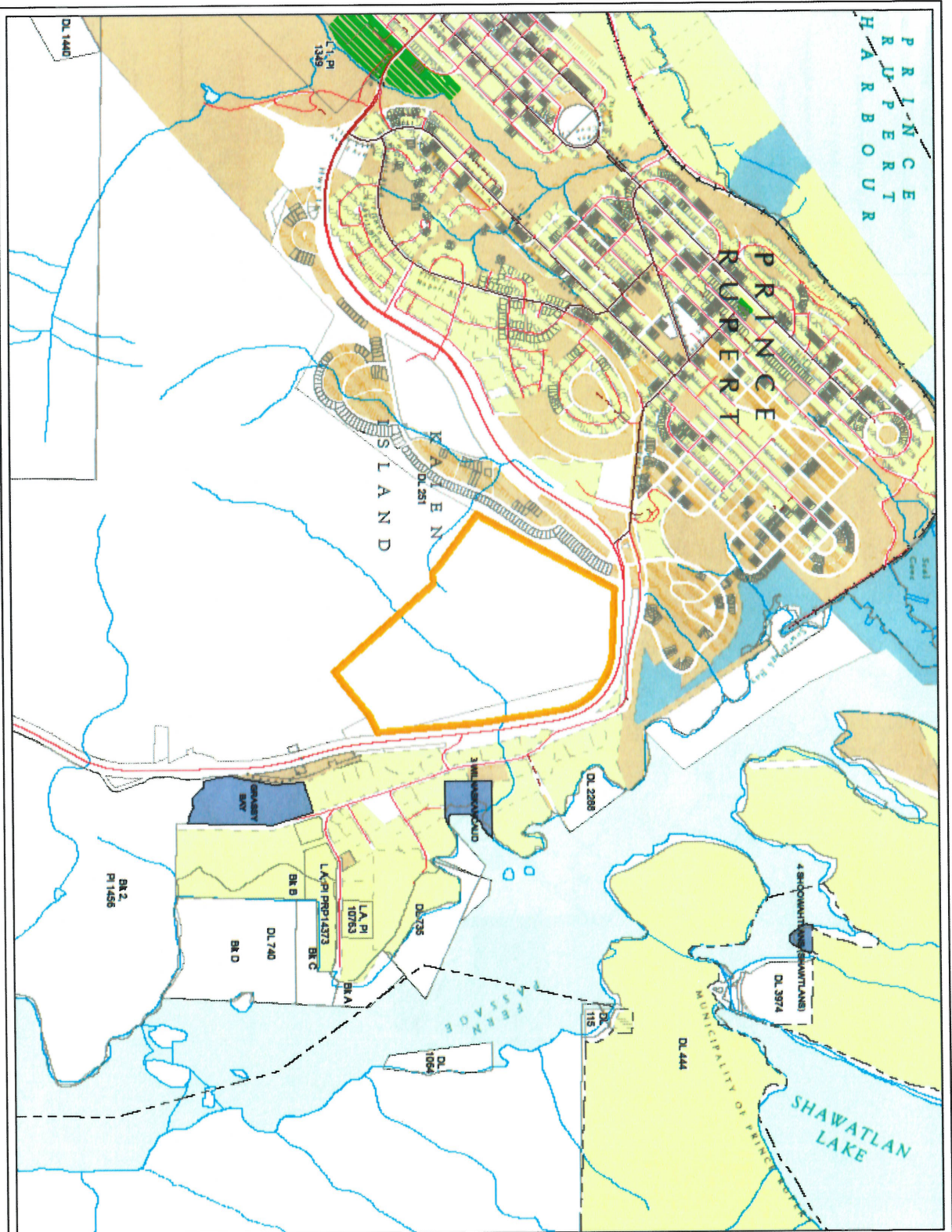
Schedule 10 Prince Rupert LNG Project Area

-  Prince Rupert LNG Project Area
-  Metlakada Indian Reserve
-  Lux Row/daams / Metlakada Indian Reserve
-  Lux Row/daams Indian Reserve
-  Kibias / Chumikilum Indian Reserve



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Schedule 11
Prince Rupert Industrial Park
Expansion Lands

- Prince Rupert Industrial Park Expansion Lands
- Cadastre Boundary
- Metlakatla Indian Reserve
- Lac (W) / Aasani / Metlakatla Indian Reserve
- Lac (W) / Aasani Indian Reserve
- Provincial Parks, Conservation and Protected Area
- Municipal, Regional or Local Park
- Private Ownership
- Crown Provincial Ownership
- Crown Federal
- Municipal Free Simple

Areas of interest do not include private land or other areas agreed upon for consultation.



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ABORIGINAL RELATIONS
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